

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 169
SPONSOR(S): Abruzzo

Equine Activities

TIED BILLS: IDEN./SIM. BILLS: SB 68

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	16 Y, 2 N	Thompson	Reese
2)	Public Safety & Domestic Security Policy Committee	7 Y, 0 N	Padgett	Kramer
3)	General Government Policy Council	16 Y, 0 N	Thompson	Hamby
4)	Policy Council		Phillips	Hogge
5)				

SUMMARY ANALYSIS

Currently, there are no requirements in Florida law for a person younger than 16 years old to wear a helmet when engaged in equine activities. The bill would require equine¹ riders under the age of 16 (minor) to wear a helmet when riding on:

- A public roadway or right-of-way, or area immediately adjacent to such roadway or right-of-way;
- A public equestrian trail, recreational trail, park or preserve, school site; or,
- Publicly owned or controlled property.

The bill further:

- Provides that the helmet meet current applicable standards of the American Society of Testing and Materials (ASTM) used in horseback riding;
- Prohibits a trainer, instructor, supervisor, or other person from knowingly renting or leasing an equine to a minor without a helmet;
- Prohibits a parent or guardian from allowing or knowingly permitting a minor to ride on public property without a helmet; and,
- Provides for a noncriminal violation with a penalty of \$500 or less plus applicable fees and court costs assessed by the county.²

The bill exempts a minor from the helmet requirement when the minor is: 1) registered as a competitor or participant in a show or event; 2) riding on private land, or, 3) engaged in an agricultural practice or pursuit.

To the extent that parents or guardians of riders and persons who rent horses will be required to purchase safety helmets, there will be an indeterminate negative fiscal impact on this segment of the private sector. Conversely, there will be an indeterminate positive fiscal impact on businesses that sell the required helmets. (See Fiscal Comments section for additional details).

This effective date of the bill is October 1, 2009.

¹ The term 'equine', in Section 773.01, Florida Statutes, is defined as a horse, pony, mule, or donkey.
² s. 775.083, F.S.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Helmet Requirements

Currently, Florida law does not require a person to wear a helmet while riding a horse, pony, mule or donkey (equine). However, two Florida communities, Plantation and Wellington, currently have municipal ordinances that are similar to the requirements provided in this bill.

Also, Florida law requires bicycle riders under the age of 16 to wear helmets.³ In addition, the law prohibits renting a bicycle to a person less than 16 years of age unless the renter provides a helmet or verifies that the person has a helmet.⁴ A violation of this section is a noncriminal traffic infraction.⁵

With respect to riding a motorcycle, a person under the age of 21 must wear a helmet.⁶ Anyone violating this law commits a noncriminal traffic infraction.

Other States

The Illinois Horse Racing Act of 1975⁷ requires riders of breed specific horses who race at certain events in the state of Illinois. The law requires that any person, of any age, who jogs, trains, warms up or drives a Standardbred⁸ horse at Standardbred race meetings in the state of Illinois and at all Standardbred race meetings held at state approved county fairs to wear a protective safety helmet. The helmet's chin strap must be fastened and in place.

New York has a statute⁹ that requires a minor who is less than 14 years of age to wear a helmet while riding a horse. The statute provides that the child's parent or guardian must pay up to a \$50 civil fine for a violation if the parent or guardian is present when the violation occurs. Further, the statute allows a waiver of the fine if a parent or guardian purchases a helmet or if the purchase of a helmet may cause an undue hardship on the parent. Lastly, the law provides that noncompliance does not

³ s 316.2065(3)(d), F.S.

⁴ s. 316.2065(16), F.S.

⁵ s. 316.2065(20), F.S.

⁶ s. 316.211, F.S.

⁷ (230 IL CS 5/1) (from Ch. 8, par. 37-31)Section 31(m) "Illinois Horse Racing Act of 1975".

⁸ <http://www.ustrotting.com/services/breed/harness.cfm#what>

⁹ McKinney's Consolidated Laws of New York Annotated, Chapter 71, Title VII, Article 34-B, Section 1265, Wearing of Helmets.

constitute contributory negligence or assumption of risk and does not bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor diminish or reduce the damages recoverable in any such action.

Liability for Equestrian-Related Injuries

Current law provides that an equine activity sponsor, an equine professional, or any other person, including a corporation or a partnership, is not liable for injury to or death of a participant because of the inherent risk associated with equine activities.¹⁰ However, they may be liable if they:

- Knew or should have known the track or equipment used in the equine activities was faulty;
- Failed to make reasonable and prudent efforts to judge the ability of the participant in the equine activities;
- Were in lawful control of the land or facilities on which the equine activities took place and the injury was due totally or in part to the condition of the land;
- Committed willful or wanton disregard for the safety of the participant, resulting in the equine sponsor being partially or totally at fault; or,
- Intentionally injured the participant.¹¹

Effect of Proposed Changes

The bill would require equine¹² riders under the age of 16 (minor) to wear a helmet when riding on:

- A public roadway or right-of-way, or area immediately adjacent to such roadway or right-of-way;
- A public equestrian trail, recreational trail, park or preserve, school site; or,
- Publicly owned or controlled property.

The bill further:

- Provides that the helmet meet current applicable standards of the American Society of Testing and Materials (ASTM) used in horseback riding;
- Prohibits a trainer, instructor, supervisor, or other person from knowingly renting or leasing an equine to a minor without a helmet;
- Prohibits a parent or guardian from allowing or knowingly permitting a minor to ride on public property without a helmet; and,
- Provides for a noncriminal violation with a penalty of \$500 or less plus applicable fees and court costs assessed by the county.¹³

The bill exempts a minor from the helmet requirements when a minor is: 1) registered as a competitor or participant in a show or event; 2) riding on private land, or, 3) engaged in an agricultural practice or pursuit. The bill as currently drafted may apply helmet requirements to minors when riding in a parade or rodeo.

B. SECTION DIRECTORY:

Section 1. Provides legislative intent to protect minors engaged in equestrian activities.

Section 2. Provides helmet requirements and penalties.

Section 3. Provides an effective date of October 1, 2009.

¹⁰ s. 773.02, F.S.

¹¹ s. 773.03, F.S.

¹² See *supra* note 1.

¹³ See *supra* note 2.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

To the extent that parents or guardians of riders and persons who rent horses will be required to purchase safety helmets, there will be an indeterminate negative fiscal impact on this segment of the private sector. Conversely, there will be an indeterminate positive fiscal impact on businesses that sell the required helmets.

To the extent that the bill increases the use of safety helmets in Florida, head-related injuries and deaths for children under the age of 16 may be reduced thereby decreasing associated medical and insurance costs.

D. FISCAL COMMENTS:

Enforcement of safety helmet violations may result in the assessment of penalties and court costs. However, because the number of violations which might occur is unknown, the fiscal impact on state and local government is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates an unnumbered section of the Florida Statutes. Regulation of equine activities currently resides in Chapter 773, F.S.

The bill requires a minor to wear a helmet when riding on an area immediately adjacent to a public roadway or right-of-way. Land that is adjacent to a public roadway or right-of-way may be private land. The bill does not require a minor riding on private land to wear a helmet. As a result, this language appears to be contradictory. One possible solution would be to clearly delineate the circumstance in which the bill applies to public land that is intersected or adjacent to private land.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.